

Appl. No. 10/814,374
Response Dated November 20, 2007
Reply to Office Action of August 23, 2007

Docket No.: 1020.P18414
Examiner: Kang, Insun
TC/A.U. 2193

Amendments to the Drawings:

The attached sheet includes changes to FIG. 1. This sheet, which includes FIG. 1, replaces the original sheet including FIG. 1. In FIG. 1, the designation of “Prior Art” has been added.

Attachment: Replacement Sheet

REMARKS

Specification

The abstract stands objected to for not containing a concise statement of the technical disclosure. Applicant respectfully submits that a replacement abstract with the proper content has been added. Consequently, removal of the objection to the specification is respectfully requested.

Figures

In amended FIG. 1, the label “Prior Art” has been added as requested in the Office Action. Therefore, removal of the drawing objection is respectfully requested.

Summary

Claims 1-20 stand in this application. Claim 9 was amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Claim Objections

Claim 9 is objected to based on claim informalities. Applicant respectfully submits that claim 9 has been amended in accordance with the instructions in the Office Action. Consequently, withdraw of the claim objection is respectfully requested.

35 U.S.C. § 102

At page 3, paragraph 7 of the Office Action claims 1-8, 11, 13-15 and 17-20 stand rejected under 35 U.S.C. § 102 as being anticipated by “Efficient Path Profiling,” IEEE, pages 1-12, 1996 by Ball et al (“Ball”). At page 8, paragraph 8 of the Office Action claims 9, 10, 12 and 16 stand rejected under 35 U.S.C. § 102 as being anticipated by Ball in view of US 6,094,729 to Mann (“Mann”). Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the anticipation rejections.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Ball fails to teach each and every element recited in claims 1-8, 11, 13-15 and 17-20 and thus they define over Ball. For example, with respect to claim 1, Ball fails to teach, among other things, the following language:

generating a trace for a subset of program instructions
formed from a set of program instructions....

According to the Office Action, this language is disclosed by Ball at page 4, right column, second paragraph. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Ball. Ball at the given cite, in relevant part, states:

The path profiling algorithm first labels edges in a DAG with integer values, such that each path from the entry to the exit of the DAG produces a unique sum of the edge values along that path (the *path sum*). However, placements from this step may have sub-optimal run-time overhead, as above.

By way of contrast, the claimed subject matter teaches “generating a trace for a subset of program instructions formed from a set of program instructions....” Applicant respectfully submits that this is different than the above recited teaching of Ball.

Applicant respectfully submits that he has been unable to locate any teaching in Ball directed to “generating a trace for a subset of program instructions formed from a set of program instructions...” as recited in claim 1. In contrast, the cited portion of Ball, arguably, teaches a path profiling algorithm that labels edges in a directed acrylic graph. Applicant respectfully submits that the algorithm disclosed in Ball, arguably, operates on an entire set of instructions, while the language of claim 1 clearly states that a trace is generated for a subset of program instructions.

Moreover, Applicant respectfully submits that Ball also fails to teach, suggest or disclose “storing said trace in a trace buffer” as recited in claim 1. According to the Office Action, this language is disclosed by Ball at page 4, left column, second paragraph. Applicant respectfully disagrees. Ball, at the given cite, in relevant part states “When a branch executes, instrumentation code appends a bit to a trace buffer that records branch outcomes.” Applicant respectfully submits that storing branch outcomes in a buffer, as arguably taught by Ball, is clearly different than storing a trace in a trace buffer as recited in claim 1.

Applicant respectfully submits that claim 1 defines over Ball. Consequently, Applicant respectfully submits that Ball fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2-8, which depend

from claim 1 and, therefore, contain additional features that further distinguish these claims from Ball.

Claims 11, 15 and 19 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 11, 15 and 19 are not anticipated and are patentable over Ball for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 11, 15 and 19. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 14, 17 and 20 that depend from claims 11, 15 and 19 respectively, and therefore contain additional features that further distinguish these claims from Ball.

Furthermore, Applicant respectfully submits that if an independent claim is not anticipated then any claim depending therefrom is also not anticipated. Accordingly, Applicant respectfully submits that claims 9, 10, 12 and 16 are not anticipated and are patentable over Ball and Mann at least on the basis of their dependency from claims 1, 11 and 15 respectively. Applicant, therefore, respectfully requests the removal of the anticipation rejection with respect to these dependent claims.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to

Appl. No. 10/814,374
Response Dated November 20, 2007
Reply to Office Action of August 23, 2007

Docket No.: 1020.P18414
Examiner: Kang, Insun
TC/A.U. 2193

be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-20 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: November 20, 2007

KACVINSKY LLC
C/O Intellecate
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529